WP(C) 3657/2006
BEFORE
HON'BLE MR JUSTICE RANJAN GOGOI
HON'BLE MR JUSTICE BP KATAKEY

JUDGMENT AND ORDER(ORAL)

(Ranjan Gogoi,J)

Heard Ms B Goyal, learned amicus curiae and Mr H Rahman, learned Asstt Solicitor General for India.

2. This suo motu action has been initiated on the basis of a letter dated 18-7-06 whereby the aggrieved person, one Dr Malay Saha (also referred to as the petitioner) has made the following complaint.
According to Dr Saha he was an aspirant for a Commonwealth Fellowship involving further studies abroad, all expenses of which were to be provided by the European Commission and Govt of India. The University Grants Commission(UGC), which was entrusted with the responsibility of selecting the right candidate(s) for the fellowship in question, had sent a call letter to the petitioner by speed post from Delhi on 7-12-05. The interview was scheduled to be held by the UGC on 20-12-05 in New Delhi. According to Dr Saha the said letter was handed over to him at his Agartala address on 20-12-05. Due to the aforesaid delay in delivery Dr Saha could not participate in the selection and consequently his prospects of being awarded the Commonwealth Fellowship got affected. On the said facts, the Hon'ble Chief Justice, to whom the aforesaid letter was addressed, had directed the Registry to register a suo motu action. A writ petition having been registered and affidavits in this case having been filed the matter is before us for final adjudication.

3. Insofar as the respondents are concerned there are two affidavits on record, one filed by the Director of Postal Services, Agartala and the second filed by the Director of Postal Services, Assam Circle. While the affidavit of the Director of Postal Services, Agartala merely reiterates that the postal article containing the call letter was received at Agartala on 19-12-05 and delivered to Dr Saha on 20-12-05, the affidavit of the Director of Postal Services, Assam Circle contains several details which will be relevant to the present case.

4. In the said affidavit of the Director of Postal Services, Assam Circle it has been stated that the postal article in question along with other such articles contained in a speed post bag, meant for Agartala, was received by the Guwahati Air Port Post Office on 9-12-05 from Delhi. Thereafter, on the same day, an attempt was made to transmit the bag to Agartala by air which act, however, could not materialize as Indian Airlines operating to Agartala on that particular day could not carry the bags on account of the load factor on their flights. In the affidavit filed it is stated that in the said circumstances it was decided to send the speed post bag to Agartala by rail-cum-road surface route. As some renovation work was going on in the Gauhati Railway Station it was only on 13-12-05 that the speed post bag containing the postal article in question was dispatched to the Lumding Railway Station and thereafter from Lumding to Silchar on 14-12-05 and from Silchar to Dharmanagar (Tripura) on 15-12-05. In this manner the speed post bag was sent from Dharmanagar to Agartala on 17-12-05 and received at Agartala on 19-12-05.
5. A person sending or expecting a postal article by speed post is entitled to assume that the postal article dispatched by him or meant for him is carried in transit in a manner which is suggestive of the name itself, i.e. speed . A letter sent from Delhi on 7-12-05 by speed post cannot be said to have been carried with any amount of speed if it reaches the addressee in Agartala on 20-12-05. Not only that, the detailed manner in which the postal article in question was carried through the route, as noticed above, leaves the court satisfied

that there are several features of the case which, ex-facie, discloses lack of due care and caution on the part of the respondents.
If the postal bag containing the letter in question reached Guwahati on 9-12-05 and could not be sent by air to Agartala on the same day, as stated in paragraph -3 of the affidavit, it is not understood as to why the same could not be sent by air on the next day or the succeeding days. Even if the decision of the postal authority to send the letter by the surface route is to be accepted it is difficult to visualise why a part of the said route had to be a rail route and the remaining by the other mode of surface communication, i.e. by road. Had the article been sent by road from Guwahati to Agartala the same would have certainly reached the addressee well in time as the road journey between the two places take about 24 hours and the two places are well connected.

6. In these circumstances the court is of the view that it will be correct to hold that the manner in which the postal article addressed to Dr Saha was dispatched and handled by the officials and staff of the postal department displays lack of elementary care and caution. The consequences of lack of such care and caution, insofar as the petitioner is concerned, has no doubt been enormous. His prospects of securing a Commonwealth Scholarship, which may have had a considerable effect in his career, has been seriously affected. We are, therefore, of the view that in the circumstances of the case, as noted above, it is necessary for the court to ensure that such laches do not take place in the future and the situation, insofar as the petitioner is concerned, is adequately remedied.
7. Mr Rahman, learned Asstt Solicitor General for India has informed the court that presently disciplinary action against the erring members of the staff and officials are going on. Taking the aforesaid statement on record we are of the view that as the Department itself has initiated action against its own staff and officials it would only be proper for this court to direct the concerned authority in the Department to complete such departmental action, as may have been initiated, within the shortest possible time. We are also of the view that as the petitioner has been wronged by the indifference, negligence and laches of the postal department the wrong committed should be remedied by award of compensation of Rs.25,000/- (Rupees twenty five thousand) only to Dr Malay Saha which will be paid to the petitioner by the respondents forthwith and without any delay. We are of the further view that the public exchequer should not be burdened with the compensation awarded by us. We, therefore, direct that the said compensation amount should be recovered from such individuals who may be found liable for the laches committed.

8. With the aforesaid directions this suo motu action stands closed.

9. A copy of this order be communicated to Dr Malay Saha at his address by registered post.